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EXECUTIVE SUMMARY

The requirement that states and territories address the problem of Disproportionate Minority Confinement (DMC) is part of the 1988 Congressional amendments to the Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) requires states to determine if minority juveniles are disproportionately confined, to assess the reasons for DMC if it exists, and to implement strategies to reduce overrepresentation. The first step in satisfying the OJJDP requirement is the identification phase designed to determine the existence of DMC, which was completed in 1999. The findings of that report showed that minority juveniles in Kentucky are taken into custody, detained, denied treatment and treatment alternatives at rates three times their representation in the state's population. This was found to be higher than the national level where DMC was found at a rate twice that of the minority population (OJJDP: 1999:10).

The second step in satisfying OJJDP requirements involves an assessment stage of the juvenile justice system to identify and explain DMC in the Commonwealth of Kentucky. This report is the result of the first year of a proposed three-year study of DMC in Kentucky. For the purposes of this report, DMC refers to disparities in minority percentages at all stages of the juvenile justice system, not just confinement. The findings presented in this report provide important snapshots of geographical areas and levels of decision-making where DMC might occur. However, the findings at this stage of the assessment study do not readily convey the extent of DMC throughout the Commonwealth nor the dynamics underlying the causes of Disproportionate Minority Confinement, as this is the purpose of the completed three-year study.

The current study examined DMC at the different stages of the juvenile justice process using both quantitative and qualitative methods of investigation. Quantitative data from the Administrative Office of the Courts and the Department of Juvenile Justice were used to analyze outcomes at various important stages of the juvenile justice process. Qualitative data was collected through in-depth interviews or focus groups conducted in five counties (Christian, Fayette, Grayson, Jefferson, Mason) with juvenile justice professionals, law enforcement officials and system-involved youth. This data was used to determine knowledge and perceptions of DMC. The study also examined policies and procedures involved in decision-making at each stage of juvenile justice processing.

The study found that the incidence of disproportionate minority confinement varies greatly across the state and across different stages of juvenile justice processing. Overall, DMC is found to be: (i) pervasive within the juvenile justice system of the Commonwealth, (ii) present in varying degrees at every stage of juvenile processing from the filing of complaints through adjudication and placement, and (iii) present in both urban and rural counties regardless of the number of complaints filed on juveniles.

Among the specific findings from the quantitative of analysis of different stages of juvenile justice processing were:

Complaints

- Compared to their racial concentration with counties, black youth are more likely to have a complaint filed against them relative to white youth. The racial disparity in the number of complaints filed occurs in both urban and rural counties
- Black youth are more likely to enter the juvenile justice system at an earlier age compared to white youth.
- In the two urban counties, Jefferson and Fayette, black youth are 2 to 2 ½ times more likely to have complaints filed against them compared to their concentration in the county's population.
- In a number of rural counties (with high numbers of total complaints) black youth are 2 to 2 ½ times more likely to have complaints filed against them compared to their concentration in the county's population.
- In a number of rural counties (with a small number of total complaints) black youth are from 8 to 28 times more likely to have complaints filed against them compared to their concentration in the county's population.

Diversion and Detention

- Racial differences were found in diversion and pre-trial detention of juveniles in both rural and urban counties and counties.
- Black youth, particularly youth under the age of 14, are less likely to be eligible for diversion compared to white youth.
- Rural counties with smaller population sizes show the greatest disparity in eligibility for diversion between black and white youth compared to more densely populated rural and urban counties.
- Throughout Kentucky, black youth are less likely to have successful diversion compared to white youth, except for Jefferson and Fayette counties.

Type of Offense and Placement after Adjudication

- Black youth are somewhat less likely to be charged with a felony in urban counties but more likely to be charged with a felony in rural counties.
- Black youth are less likely to be placed at home and in a treatment facility compared to white youth.
- Black youth are more likely to be placed in a DJJ secure detention facility compared to white youth.

Among the specific findings of the qualitative analysis conducted in five counties were:

Juvenile Justice Process and Perceptions of Professional Staff

- Despite consistent laws, policies and guidelines for the juvenile justice system in Kentucky, people in different counties and in different job categories interpret and implement statutes differently, which may lead to bias.
- At every stage of the juvenile justice process there is opportunity for personnel to use discretion in making decisions. Seventeen (17) points of discretion were identified and at each of these points bias can occur.
- Certain changes in policies and resources can result in DMC. For example, the recent emphasis on and funding devoted to drug enforcement may be having a greater effect on African-Americans because African American communities and black juveniles in particular become targets of that program.
- People in different counties and in different job categories in the juvenile justice system have disparate perceptions about the seriousness, presence, and causes of DMC. These perceptions may or may not accurately reflect the actual extent of DMC and are often contradicted by quantitative findings.
- In general, personnel in rural counties tend to believe that DMC is neither present nor serious in their county.

Professional Staff's Perception of Causes for DMC

The perceptions of causes of DMC may not reflect reality although they are important in the identification of areas that require further examination and the perceptions and knowledge base that are used by personnel who make decisions in the process. They include:

- Racial profiling
- Differences in type of offense
- Weaknesses in minority families
- Link between economic inequality, poverty, race and juvenile delinquency
- Rubber-stamping police recommendations
- Change in policy and/or focus of new policies

Perception of System-Involved Juveniles

Information from one youth focus group interview revealed that:

- Juveniles within the system have positive perceptions about the role of the juvenile justice system but expressed negative experiences and perceptions about personnel working with the system, in particular, the law enforcement officers.
- They also believe that their race/ethnicity and social class affects how they are treated and the outcomes of their cases.
- They reported that they did not know their rights as youth, and are not allowed to fully express “their side of the story” at any point in the process.

Recommendations on how to reduce the incidence of DMC in Kentucky are suggested on pages 77 through 79 of the report. These recommendations focus on human resource development, closer supervision of policy implementation and procedures, a reinterpretation or modification of certain policies and laws, and areas for further research.